

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATORY ACTION

AMEND ARTICLE 1, DEFINITIONS AND GENERAL PROVISIONS, SECTIONS 1200; ARTICLE 6.5,
CARRIER IDENTIFICATION NUMBERS, SECTIONS 1235.1 THROUGH 1235.6; AND ARTICLE 8,
SECTION 1256, IDENTIFICATION
ADOPT NEW SECTION 1235.7, LEASED VEHICLES

MOTOR CARRIER SAFETY CARRIER IDENTIFICATION (CHP-R-09-15)

California Vehicle Code (VC) Section 34501 requires the Department of the California Highway Patrol (CHP) to adopt reasonable rules and regulations which, in the judgment of the Department, are designed to promote the safe operation of vehicles described in 34500 VC. Those regulations are contained in Title 13, California Code of Regulations.

Section 34507.5 VC requires certain persons, primarily motor carriers, to obtain a California Carrier Identification number, identified in regulation as a "CA number," from the CHP, and with some exceptions, to display that number on both sides of the vehicles mentioned above. During 2001/2002, in order to provide greater clarity to the enabling statute, the CHP adopted regulations relating to the assignment of carrier identification numbers. Now, however, the CHP believes that recent developments indicate all persons who are subject to Section 34507.5 should be provided greater clarity with regard to whom the CA number should be assigned. That clarity is provided through formal adoption of regulations in Title 13 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CHP proposes to amend Title 13, California Code of Regulations, Division 2, Chapter 6.5, Article 1, Section 1200 and Article 6.5, Sections 1235.1 through 1235.6, Article 8, Section 1256 and Adopts Article 6.5, new Section 1235.7, pursuant to Sections 34501 and 34507.5 VC. The CHP proposes to specifically address the assignment of carrier identification numbers to motor carriers and to Motor Carriers of Property (MCP), two separately-defined groups identified in the VC who are required by statute to obtain identification numbers from the Department. The purpose of the identification number is to identify an electronic record maintained by the Department for the purpose of tracking the safety performance of motor carriers and MCPs who operate on California highways. The purpose of tracking their safety performance is to implement the mandate in Section 34500 VC, which charges the Department with the responsibility to regulate the safe operation of all the vehicles listed in that section, and to regulate the safe operation of MCPs pursuant to Section 34623 VC.

These regulations are necessary to ensure that persons who are subject to safety regulation by the Department are properly identified by their legal names and related information. Proper

identification ensures that data relating to the safety performance of persons who operate in California as motor carriers or MCPs is always attributed to the correct person, and consequently to ensure that when the Department must take legal action against a person for violations of safety laws and regulations, the person is accurately identified.

Additionally, in order to provide a consistent identification of interstate motor carriers under both state and federal rules, it is necessary that the Department adopt rules relative to the leasing of motor vehicles which are consistent with existing federal rules. This does not necessarily create new rules for interstate motor carriers, because they are already subject to identical rules, but it does permit the Department to both identify interstate motor carriers in the same manner as the Federal Motor Carrier Safety Administration (FMCSA) and to enforce substantially the same requirements on those motor carriers as our federal counterpart. This will permit the Department to move one step closer in providing a seamless enforcement of regulations for motor carriers operating in an interstate mode within the boundaries of California.

The Department also proposes to adopt consistent leasing rules for intrastate motor carriers of property. Those rules which apply to intrastate motor carriers will need to be modeled on the interstate motor carrier rules, but include the necessary changes to accommodate those subtle differences between the FMCSA's motor carrier registration and operating authorities and the Department of Motor Vehicle's MCP permit. The proposed rules will conspicuously omit the for-hire passenger transportation industry as well as Household Goods carriers as they operate under a separate authority issued by the California Public Utilities Commission and specific rules adopted by the same agency.

PUBLIC COMMENTS

Any interested person may submit written comments on these proposed actions via facsimile to (916) 446-4579, by email to cvsregs@chp.ca.gov, or by writing to:

California Highway Patrol
Commercial Vehicle Section
ATTN: Mr. Gary Ritz
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments must be received no later than 4:45 p.m., July 20, 2009.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section (CVS), no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an initial statement of reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile at (916) 446-4579 or by calling the CHP,

CVS, at (916) 445-1865. Facsimile requests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The rulemaking file is available for inspection at the CHP, CVS, 444 North Third Street, Sacramento. Interested parties are advised to call for an appointment.

All documents regarding the proposed action are also available through our website at www.chp.ca.gov/regulations.

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will also be posted on our website.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations should be directed to Mr. Gary Ritz, or Mr. Greg Bragg, CHP, CVS, at (916) 445-1865. Inquiries regarding the substance of the proposed regulations should also be directed to Mr. Ritz or Mr. Bragg.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or nonsubstantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL AND ECONOMIC IMPACT

The CHP has made an initial determination that this proposed regulatory action: (1) will have no affect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no nondiscretionary or reimbursable costs or savings to any local agency or school district; nor costs or savings to any state agency, or federal funding to the state; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The CHP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. However, the regulated community is encouraged to respond during the public comment period of this regulatory process if significant impacts are identified.

EFFECT ON SMALL BUSINESSES

The CHP has not identified any significant impact on small business. This does not represent an additional mandate on motor carriers, but simply provides a method by which an intrastate motor carrier can operate vehicles it does not own. This is not to say a motor carrier who chooses to operate under the provisions of this regulatory process will not incur certain administrative costs; the fact is a motor carrier who elects to use these provisions, would voluntarily subject themselves to the administrative costs associated with certain document preparation and retention requirements required by this rulemaking. However, an intrastate motor carrier who continues to operate their own vehicles, under the current rules, would be completely unaffected by this proposal. Interstate motor carriers are already subject to the requirements of this proposal. Adoption of the federal rules simply permits the CHP to enforce those rules already included in 49 CFR, Part 376. Should the motor carrier industry identify any costs not identified by this rulemaking, the CHP would encourage input on this matter during the comment period.

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the CHP must determine that no reasonable alternative considered by the CHP, or that has otherwise been identified and brought to the attention of the CHP, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AUTHORITY

This regulatory action is being taken pursuant to Vehicle Code Sections 34500, 34500.1, 34501, 34501.12, 34505.1, 34505.6, 34505.7, 34507.5, 34507.6, 34508 and 34620.

REFERENCE

This action implements, interprets, or makes specific Vehicle Code Sections 34507.5, 34620 (a), 34621 (b)(4).

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
D. A. VERTAR, Chief
Enforcement Services Division